

FREQUENTLY ASKED QUESTIONS HILL AREA INITIATIVE OF 2002

Q: When was the Initiative enacted?

A: The Protection of the Fremont Hills Hill Initiative of 2002 (referred to as the "Initiative", and also known as "Measure T") was drafted and placed on the November 2002 ballot by a group of Fremont citizens, and was passed by the voters. The Initiative is current and binding law and applies to all development proposed in the Fremont Hill Area, as defined by the Initiative.

Q: What is the purpose of the Initiative?

A: The Initiative states that its purpose "is to protect natural resources, watersheds and water quality, wildlife habitat, beauty and tranquility, and scenic hill views, while permitting access to nature and outdoor recreation for the residents of Fremont. It is designed to prevent urban-type sprawl . . . by providing a needed balance between urban development and rural, natural qualities, the measure helps preserve the special character and identity of Fremont and the high quality of life in the City."

Q: Where / What is the "Toe of the Hill" line?

A: The Initiative applies to a specific area of Fremont, called the "Hill Area," and the Toe of the Hill represents the western line of origin beyond which the provisions of the Hill Area. The "Toe of the Hill" is defined in the Initiative as "a line along the base of the hills, where the natural grade first becomes twenty percent or more . . .", and includes all such land to the City limits to the north, south, and east.

Staff will present a proposed Toe of the Hill Line to the City Council for adoption in July 2004. This proposed Toe of the Hill Line was prepared based on the definition in the Initiative, the stated purpose of the Initiative, as well as the topographic challenges posed by the varied nature of the Fremont hills.

Q: How is my property affected? Can I still develop?

A: For properties that are above the Toe of the Hill, additional development standards set forth in the Initiative apply.

In the case of subdivision to create new lots, these standards require new lots be a minimum parcel size of 20 acres. For property proposing to annex to the City, new lots are required to be 100 acres pursuant to the Initiative.

If a lot in the Hill Area already exists, and was legally created prior to passage of the Initiative the uses allowed on such a lot are only those uses permitted by the Initiative, which includes single-family residential, agricultural, outdoor recreation, and other uses.

In cases of new construction, the new development standards now applicable include limitations on grading, siting, and maximum permitted floor area. There are prohibitions against developing near streams and creeks, as well as within wildlife habitat and wetland or riparian corridors. Of particular significance is the Initiative's prohibition on building sites located on slopes of thirty percent (30%) or more, as well as a prohibition on access to a site which crosses a slope of thirty percent (30%) or more.

Generally speaking, these standards are designed to preserve the natural topography and protect hill views, which fit the purpose of the Initiative as listed above. Because the Toe of the Hill line is required to be one contiguous line, and must respect a slope contour line, the line may bisect parcel boundaries, meaning that a portion of a parcel could be subject to the Initiative, while the remainder is not.

Property owners who already have an allowed use, such as a single family residence which was built prior to the effectiveness of the Initiative, are still governed by its provisions. If that parcel is located above the Toe of the Hill in the Hill Area the restrictions and development standards of the Initiative apply to any proposed remodel, addition, or improvement to the existing property.

Additionally, the review authority for proposed development above the Toe of the Hill in most cases is the Planning Commission.

Q: Does the Initiative change my zoning?

A: For properties located above the Toe of the Hill that were previously zoned Residential, the new designation is "Hill Face Open Space" or "Hill Open Space." Residential uses in Planned Districts, however, keep the Planned District (PD) designation, but the Planned District designations are amended to make them subject to the Initiative. All other land use districts also retain their current designation. Because the Toe of the Hill line respects a slope contour line, and is required to be one contiguous line, such a line may bisect parcel boundaries, meaning that a parcel could have two zoning designations, for example, "Hill Open Space" and "Single Family Residential."

Q: What happens if my house is destroyed by fire, earthquake, etc.? Can I rebuild?

A: Because the Initiative recognizes that lots legally created prior to its passage are legal lots of record for uses permitted in the Hill Area, which includes single-family residential, the City is proposing that if a permitted use is destroyed by disaster that the reconstruction of the original structure be allowed, provided that it is no larger than it existed before the disaster. Additions or modifications proposed as part of the reconstruction would be subject to the Hill Area development standards as for new construction.

